

FILED
U.S. DISTRICT COURT
DISTRICT OF MASS.
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UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

CIVIL ACTION, FILE NO.: _____

RECEIPT # 59963
AMOUNT \$ 2
SUMMONS ISSUED 2
LOCAL RULE 4. _____
WAIVER FORM. _____
MCF ISSUED. 9/8
BY DPTY. CLK. _____
DATE 1-7-04

DOROTHY FANNIN,
ADMINISTRATOR OF THE ESTATE
OF MALINDA SUE FANNIN,
PLAINTIFF

VS.

OCEAN CREST SEAFOOD, INC. AND
BRUCE HILDEBRANDT,
DEFENDANTS

COMPLAINT AND
CLAIM OF
TRIAL BY JURY

04 CV 10026 WGY

MAGISTRATE JUDGE Illings

I. PARTIES

1. The plaintiff, Dorothy Fannin, is the duly appointed Administrator of the Estate of Malinda Sue Fannin of Raceland, County of Greenup, Kentucky.
2. Ocean Crest Seafood, Inc. is a corporation duly organized under the laws of the Commonwealth of Massachusetts with a principal place of business in Gloucester, County of Essex, Massachusetts.
3. The defendant, Bruce Hildebrandt, is a resident of Gloucester, County of Essex, Massachusetts.

II. JURISDICTION

4. Jurisdiction is founded on diversity of citizenship and amount.
U. S. C. Title 28, Section 1332.

SCANNED

DATE: 1-8-04

BY: EDM

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5. The plaintiff, Dorothy Fannin, is the mother of the decedent, Malinda Sue Fannin, and is the duly appointed administrator of her estate, by Order of the Greenup District Court, Commonwealth of Kentucky.
6. The defendant, Ocean Crest Seafood, Inc. is a corporation incorporated under the laws of the Commonwealth of Massachusetts with a principal place of business in Gloucester, Massachusetts.
7. The defendant, Bruce Hildebrandt, is a resident of Gloucester, Massachusetts.
8. The matter in controversy exceeds, exclusive of interest and costs, the sum of \$50,000.00.

III. FACTUAL ALLEGATIONS

9. On March 18, 2003, on a public way called Seaport Blvd. in the City of Boston, Massachusetts, the defendant, Bruce Hildebrandt, so negligently and carelessly drove a motor vehicle owned by the defendant, Ocean Crest Seafood, Inc., that it was caused to strike the plaintiff's decedent, Malinda Sue Fannin, who at the time was a pedestrian crossing said public way.
10. As a result, the plaintiff's decedent was thrown down and injured, underwent conscious pain and suffering and ultimately died from her injuries.
11. At all times material hereto, the defendant, Bruce Hildebrandt, was an agent, servant and/or employee of the defendant, Ocean Crest Seafood, Inc. and was acting in the course of said employment at the time of the accident.

IV. CLAIMS

COUNT I

(Wrongful death vs. Ocean Crest Seafood, Inc.)

12. The plaintiff repeats the averments contained in paragraphs one, two and nine through eleven of the Complaint and incorporates them herein by reference as if set forth word for word.
13. This claim is brought on behalf of the heirs at law and next of kin of the plaintiff's decedent, Malinda Sue Fannin, for damages due to the wrongful death of the plaintiff's decedent caused by negligence of the defendant, Ocean Crest Seafood, Inc., its agent, servants and/or employees.

Wherefore, the plaintiff demands judgment against the defendant, Ocean Crest Seafood, Inc., for all damages due to the wrongful death of the plaintiff's decedent, Malinda Sue Fannin, caused by the defendant's negligence.

COUNT II

(Wrongful death vs. Bruce Hildebrandt)

14. The plaintiff repeats the averments contained in paragraphs one, three, nine and ten of the Complaint and incorporates them herein by reference as if set forth word for word.
15. This claim is brought on behalf of the heirs at law and next of kin of the plaintiff's decedent, Malinda Sue Fannin, for damages due to the wrongful death of the plaintiff's decedent caused by negligence of the defendant, Bruce Hildebrandt.

Wherefore, the plaintiff demands judgment against the defendant, Bruce Hildebrandt, for all sums due to the wrongful death of the plaintiff's decedent, Malinda Sue Fannin, caused by the negligence of the defendant, Bruce Hildebrandt.

COUNT III

(Conscious Pain and Suffering vs. Ocean Crest Seafood, Inc.)

16. The plaintiff repeats the averments contained in paragraphs one, two and nine through eleven of the Complaint and incorporates them herein by reference as if set forth word for word.
17. This claim is brought for the conscious pain and suffering of the plaintiff's decedent, Malinda Sue Fannin, caused by the negligence of the defendant, Ocean Crest Seafood, Inc., its agent, servants and/or employees.

Wherefore, the plaintiff demands judgment against the defendant, Ocean Crest Seafood, Inc., for all damages due to the conscious pain and suffering of the plaintiff's decedent, Malinda Sue Fannin, caused by the negligence of the defendant, Ocean Crest Seafood, Inc..

COUNT IV

(Conscious Pain and Suffering vs. Bruce Hildebrandt)

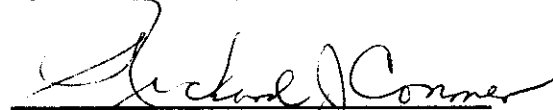
18. The plaintiff repeats the averments contained in paragraphs one, three, nine and ten of the Complaint and incorporates them herein by reference as if set forth word for word.

19. This claim is brought for the conscious pain and suffering of the plaintiff's decedent, Malinda Sue Fannin, caused by the negligence of the defendant, Bruce Hildebrandt.

Wherefore, the plaintiff demands judgment against the defendant, Bruce Hildebrandt, for all damages due to the conscious pain and suffering of the plaintiff's decedent, Malinda Sue Fannin, caused by the negligence of the defendant, Bruce Hildebrandt.

THE PLAINTIFF CLAIMS TRIAL BY JURY
AS TO ALL ISSUES IN THE COMPLAINT

By Her Attorney,

A handwritten signature in black ink, appearing to read "Richard J. Conner", is written over a horizontal line.

Richard J. Conner, Esq.
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